IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Smt. Vandana Singhvi Vs. State of Rajasthan & Ors.

S.B.CIVIL WRIT PETITION NO.5447/2005

DATE OF ORDER :: January 12, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr. S.S.Khangrot, for the petitioner.
Mr. Rameshwar Dave, Dy.G.A.

BY THE COURT:

The controversy involved in the instant writ petition stands concluded by the decision of this Court in S.B.Civil Writ Petition No.2692/2005, Bhopal Singh Nahar vs. State of Rajasthan & Anr. decided on 15.9.2006, whereby the writ petition was allowed.

I have heard learned counsel for the parties.

Facts giving rise to the instant writ petition are that the petitioner while holding the post of Assistant Director, Land Building Tax Udaipur for the period from 18.9.1993 to

26.7.1995, made an assessment in respect of M/s Green Marbles House Private Ltd., G.I.R. No. G-476. While assessing the land value, it is alleged that ignoring rise in index of market rate, the petitioner under assessed the market value causing loss to the State Revenue for Rs.62715/-.

It is contended by the learned counsel for the petitioner that the assessment order was opened under section 15-B of the Land and Building Tax Act and a fresh assessment has been made vide order dt. 26.6.1997. That order came to be challenged by M/s Green Marble House, Pvt. Ltd. by way of filing a revision before the Additional Commissioner, Udaipur which was partly allowed vide order dt. 13.10.1999 and the matter was remanded to the Assistant Director, Land and Building Tax and, therefore, the original assessment order did not exist. Even otherwise the order was made while exercising the quasi judicial powers. The order making assessment is revisable and has subsequently been revised by Addl. Divisional Commissioner. There is no allegation of malafide or corrupt practice to construe any misconduct.

This Court in Bhopal Singh Nahar vs. State of Rajasthan & Anr., S.B.Civil Writ Petition No.2692/2005, allowed the writ petition involving similar facts and the disciplinary proceedings

initiated against the petitioner therein was quashed. In Zunjarrao Bhikaji Nagarkar vs. Union of India & Ors., AIR 1999 SC 2881, the Hon'ble Supreme Court held as under:

> "43.If, every error of law were to constitute a charge of misconduct, it would impinge upon the independent functioning of quasi judicial officers like the appellant. Since in sum and substance misconduct is sought to be inferred by the appellant having committed an error of law, the charge-sheet on the face of it does not proceed on any legal premise rendering it liable to be quashed. In other words, to maintain any charge-sheet against a quasi judicial authority something more has to be alleged than a mere mistake of law, e.g., in the nature of some extraneous consideration influencing the quasi judicial order. Since nothing of the sort is alleged herein the impugned charge-sheet is rendered illegal. The charge-sheet, if sustained, will thus impinge upon the confidence and independent functioning of a quasi judicial authority. The entire system of administrative adjudication whereunder quasi judicial powers are conferred on administrative authorities, would fall into disrepute if officers performing such functions are inhibited in performing their functions without fear or favour because of the constant threat of disciplinary proceedings."

Keeping in view the decision of the Hon'ble Supreme Court in Zunjarrao Bhikaji Nagarkar vs. Union of India & Ors. (supra) as also the decision of this Court in Bhopal Singh Nahar vs. State

of Rajasthan (supra) and in case of the other writ petition filed by the present petitioner earlier being S.B.Civil Writ Petition No.5446/2005, which was allowed involving the identical facts, the order impugned deserves to be quashed.

In the result, the writ petition is allowed. Notice dt. 4.1.2005 (Annexure-2) stands quashed. There shall be no order as to costs. The stay petition stands disposed of.

(H.R.PANWAR),J.

m.asif/-